

Notice of Allowability

Application No.

10/657,906

Examiner

Tam Nguyen

Applicant(s)

STOUT, TADLINGTON A.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to an interview on 6-23-2005.
2. ☒ The allowed claim(s) is/are 21-39.
3. ☒ The drawings filed on 09 September 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date Same as Allowance.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

1. Authorization for this examiner's amendment was given in a telephone interview with Charles D. Gavrilovich on June 23, 2005.

2. The application has been amended as follows:

Claim 21, delete line 2 and insert --a bell having a solid outer surface and a plurality of apertures through the outer surface adapted to allow water flow when the device--.

Claim 21, line 4, delete "an" and insert --the--.

Claim 23, delete lines 3-6 and insert --a plurality of longitudinal fins; at least one curved transverse fin at least partially encircling an inner cavity of the bell; the plurality of longitudinal fins extending from an apex of the bell to the at least one curved transverse fin.--

Claim 31, delete lines 3-5 and insert --a plurality of curved longitudinal fins; at least one curved transverse fin at least partially encircling an inner cavity of the bell, the plurality of curved longitudinal fins extending from an apex of the--.

Claim 34, line 1, delete "wherein bell" and insert --wherein the bell--.

Claim 39, delete lines 1-4 and insert --39. A method of aquatic exercise comprising: holding a handle of an aquatic exercise device comprising a bell having a plurality of curved longitudinal fins, at least one curved transverse fin at least partially encircling an inner cavity of the bell, the

plurality of curved longitudinal fins extending from an apex of the bell to the at least one curved transverse fin, and the handle connected within the bell; and moving the aquatic exercise device through water to achieve a resistance independent to a direction of motion within a transverse plane tangential to an apex of the bell.--

Claim 40 is canceled.

REASONS FOR ALLOWANCE

3. The following is an examiner's statement of reasons for allowance:

In view of the applicant's amendments and after further consideration of the invention, the claims as presented, 21-39, avoid the prior art of record. The prior art does not disclose an aquatic exercise device having a bell with a solid outer surface and a plurality of apertures on the outer surface adapted to allow water flow when the device is moved through water, a plurality of fins extending from the outer surface to provide resistance when the device is moved through water, and a handle connected within the interior of the bell wherein the handle is accessible by a human hand through an opening in the bell.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Terminal Disclaimer


4. The terminal disclaimer filed on January 18, 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent No. 6,672,994 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 571-272-4979. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 23, 2005


STEPHEN R. CROW
PRIMARY EXAMINER
ART UNIT 332